

**MEMORANDUM
TO THE HONORABLE DENIS R. HURLEY
United States District Judge**

RECEIVED
HON. DENIS R. HURLEY

★
RE: SPALLONE, SILVIO APR 11 2005 ★

**DOCKET NO.: 9:99-CR-00317-DRH
CLARIFICATION OF**

TERM OF SUPERVISED RELEASE

Enclosed for Your Honor's review is a copy of the decision rendered by the United States Court of Appeals for the Second Circuit, which affirmed Your Honor's conclusion that the above-captioned offender was not dispensed from the requirement to serve a term of three years' supervised release, by the late Judge Mishler's order of April 18, 2002, that reduced the custodial portion of Spallone's sentence to "time served."

The purpose of this memorandum is to set forth the Probation Department's interpretation of the Circuit Court's decision to mean that the offender's term of three years' supervised release commenced immediately on March 4, 2005, the date the Court handed down its decision, and is scheduled to conclude on March 3, 2008. This interpretation is based on the language of the decision, referring as it does, to the fact that Spallone did not submit to any post-incarceration supervision, while his case was moving through the Courts. The Probation Department is approaching the Court for clarification of the dates of supervised release, because Silvio Spallone appears to be of the belief that his supervision will conclude on or about April 17, 2005, the third anniversary of his release from prison.

Spallone reported as directed to the U.S. Probation Office in Central Islip, NY on Tuesday, March 15, 2005, and signed conditions of supervised release, as required. He told the Probation Officer who witnessed the signing of the conditions, that he had two residences: one in Glen Cove, Long Island and the other in Palm Coast, Florida. Spallone indicated that his primary residence is his home in Florida and for this reason, his supervision is now pending transfer to the Middle District of Florida. On March 16, 2005, Spallone reported unannounced to the U.S. Probation Office in Jacksonville, Florida, where he was once again interviewed by a Probation Officer. He informed the officer that his supervision was scheduled to conclude in April, 2005, three years after his release from prison. The Probation Office in the Middle District of Florida requires the Court's decision on the dates of supervision before it can accept the case.

The Probation Department respectfully requests that Your Honor direct offender Spallone to serve three years of supervised release, commencing March 4, 2005 and concluding March 3, 2008, in accordance with the above-referenced Circuit Court decision .

RESPECTFULLY SUBMITTED:

TONY GAROPPOLO
CHIEF U.S. PROBATION OFFICER

PREPARED BY:


MADELINE HART
Senior U.S. Probation Officer

APPROVED BY:


KATHLEEN KEARNS
Supervising U.S. Probation Officer

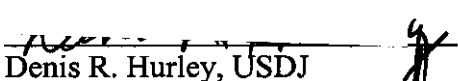
APRIL 5, 2005
Enc.

The Probation Department's interpretation that the dates of supervised release to be served by Silvio Spallone are March 4, 2005 through March 3, 2008 is hereby

☒ Affirmed

☐ Denied

☐ Other: _____


Denis R. Hurley, USDJ

4-11-05
Date